



Legal Update

August 2016

An Act Preventing Animal Suffering and Death

Chapter 248 of the Acts of 2016: On August 19, 2016 Governor Baker signed into law S. 2369, *An Act Preventing Animal Suffering and Death*. The bill restricts tethering an animal for certain periods of time or if there are weather concerns. Additionally, it authorizes law enforcement to enter a motor vehicle if an animal is locked inside the vehicle and subject to dangerous conditions. This law will become effective in November 2016.

Amendments to G.L. c. 140, § 174E:

- ❖ **Length of Time Restricted for Tethering:** “Prohibits any animal being tethered to a stationary object including a dog house, pole or tree for longer than 5 hours within a 24 hour period and outside from 10 PM to 6AM unless the tethering is for not more than 15 minutes and the dog is not left unattended by the owner, guardian or keeper.”
- ❖ **Restrictions on leaving a dog outside with weather conditions:** A dog cannot be left outside when a weather advisory, warning or watch is issued by a local, state or federal authority or when outside environmental conditions including, but not limited to, extreme heat, cold, wind, rain, snow or hail, pose an adverse risk to the health or safety of the dog based on the dog's breed, age or physical condition, unless the

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tethering is for not more than 15 minutes.

Exception: An exception to a restriction on outdoor confinement under this section that is reasonably necessary for the safety of a dog shall be made for a dog that is:

- (i) present in a camping or recreational area pursuant to the policy of the camping or recreational area; or
- (ii) actively engaged in conduct that is directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products.

PENALTIES: 1st offense: \$50; 2nd offense: \$200; 3rd or subsequent offense: \$500.

A special police officer appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston under G.L. c. 22C § 57 may enforce this section following the same procedures relating to notice and court procedure in G.L. c. 40 §21D for the non-criminal disposition of a violation, if an animal control officer contacted by either of these agencies in response to a violation of this section is unresponsive or unavailable.

New Section: G.L. c. 140, § 174F:

- ❖ Confinement within a motor vehicle: A person shall not confine an animal in a motor vehicle in a manner that could reasonably be expected to threaten the health of the animal due to exposure to extreme heat or cold.
- ❖ Authority of animal control officer, law enforcement or fire fighters: If an animal is left in a motor vehicle and the owner cannot be located, an animal control officer, law enforcement officer or fire fighter may enter a motor vehicle by any reasonable means to protect the health and safety of an animal. An animal control officer, law enforcement officer or fire fighter may enter the motor vehicle for the sole purpose of assisting the animal and may not search the vehicle or seize items found in the vehicle unless otherwise permitted by law.

NOTE: There is no criminal or civil liability for animal control officer, law enforcement or firefighter that enters the vehicle for the above purpose.

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- ❖ Procedure After Entry: An animal control officer, law enforcement officer or fire fighter who removes or otherwise retrieves an animal shall leave written notice in a secure and conspicuous location on or in the motor vehicle bearing the officer's or fire fighter's name and title and the address of the location where the animal may be retrieved.

- ❖ Retrieval of Animal: The owner can only retrieve the animal after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.

- ❖ Rights of Citizens: If citizen cannot locate owner of motor vehicle, he or she can only enter a motor vehicle to assist the animal if:
 - i. He or she notified enforcement or called 911 before entering the vehicle;
 - ii. The motor vehicle is locked or there is no other reasonable means for exit and the person uses not more force than reasonably necessary to enter the motor vehicle and remove the animal;
 - iii. There is a good faith and reasonable belief, based upon known circumstances, that entry into the vehicle is reasonably necessary to prevent imminent danger or harm to the animal; and
 - iv. They must remain with the animal in a safe location in reasonable proximity to the vehicle until law enforcement or another first responder arrives.

NOTE: There is no criminal or civil liability for a person that enters the vehicle for the purposes listed above.

PENALTY: Civil infraction punishable by a fine of not more than \$150 for a 1st offense, \$300 for 2nd offense and \$500 for a 3rd or subsequent offense. There is nothing that precludes prosecution under G.L. c. 272, § 77.

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